

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
PUBLIC HEALTH HEARING OFFICE**

Helmy Mahdy, L.M.T.
License No. 002530

Petition No. 2002-0109-029-001

MEMORANDUM OF DECISION

Procedural Background

On August 6, 2002, the Department of Public Health ("the Department") issued a Statement of Charges ("the Charges") against Helmy Mahdy, L.M.T. ("respondent") Rec. Exh.1. The Charges allege that respondent's conduct constitutes grounds for disciplinary action pursuant to the Connecticut General Statutes ("the Statutes") §§19a-10 and 19a-14.

On August 13, 2002, the Department issued a Notice of Hearing in which the Commissioner appointed this Hearing Officer to hear this matter, to rule on all motions, and determine findings of fact and conclusions of law, and issue an Order. Respondent was notified of the hearing via first class mail and certified mail, return receipt requested. Rec. Exh. 1.

Respondent did not file an Answer to the Charges. Rec. Exh. 4; Tr. p. 8.

On October 9, 2002, an administrative hearing was held. Respondent failed to appear and was not represented by counsel. Attorney Stephen Miltimore represented the Department.

On September 5, 2002, the Department filed a Motion to Deem Allegations Admitted ("the Motion") pursuant to §19a-9-20 of the Regulations of Connecticut State Agencies ("the Regulations"). Rec. Exh. 4. On September 13, 2002, the Motion was granted, upon sufficient proof of service on respondent. Rec. Exh. 4; Tr. pp. 5 - 6.

This Memorandum of Decision is based entirely on the record and sets forth this Hearing Officer's findings of fact, conclusions of law, and order.

Allegations

1. Respondent is, and has been at all times referenced in the Statement of Charges, the holder of Connecticut Licensed Massage Therapist license number 002530.
2. From September 2001 through November 2001, respondent treated clients at Back In Touch Therapeutic Massage in Granby, Connecticut.
3. At all relevant times, respondent represented himself as a physician.
4. Respondent is not licensed in Connecticut as a physician.
5. Respondent represented himself as a natureopathic physician.
6. Respondent is not licensed in Connecticut as a natureopathic physician.
7. Respondent practiced beyond the scope of his massage therapy license in that respondent:
 - a. performed physical examinations;
 - b. devised and advised adherence to treatment plans, which included dietary recommendations and vitamin supplements;
 - c. sold to his clients the vitamin supplements;
 - d. sold to his clients the vitamin supplements that he recommended; and
 - e. provided medical treatment.
8. Respondent failed to make written referrals to licensed healing arts practitioners of clients who have any physical or medical condition that may require evaluation or treatment beyond the scope of massage therapy.
9. On or about February 20, 2001, respondent falsified his massage therapist license application in that he:
 - a. used the abbreviation "M.D." in the portion of the application which specified how his name and address will appear on his official license;
 - b. checked "no" to question number 5, which asked if he had ever been subject to any complaint, investigation, charge, or disciplinary action by any professional licensing or disciplinary body; and
 - c. checked "no" to question number 6, which asked if he had ever entered into a consent agreement of any kind with any professional licensing or disciplinary body in any state.
10. On August 18, 1998, the Connecticut Medical Examining Board issued a Cease and Desist Consent Order whereby respondent agreed "to cease and desist using the title 'doctor' or the abbreviation 'M.D.' or engaging in any other practice that

requires licensure in the State of Connecticut without first obtaining an appropriate license.

11. On September 18, 1998, the State Board of Natureopathic Examiners issued a Cease and Desist Consent Order whereby respondent agreed "to cease and desist using the title 'doctor' or the abbreviation ' N. D.' or engaging in any other practice that requires licensure in the State of Connecticut without first obtaining an appropriate license."
12. The above-described facts constitute grounds for disciplinary action pursuant to Connecticut General Statutes §20-206c.

Findings of Fact

1. The Department provided respondent with adequate and reasonable notice of the hearing in this matter by sending such notice to respondent. Respondent received the Notice of Hearing. Rec. Exhs.2- 4; Tr. pp. 4-5,11.
2. Respondent did not attend the hearing, or request that it be continued. Tr. p. 2.
3. Respondent did not file an Answer to the allegations contained in the Statement of Charges. Rec. Exh. 4; Tr. p. 2.
4. The allegations contained in paragraphs one through twelve, inclusive, of the Charges, as set forth above, are deemed admitted and true. Rec. Exh. 4; Dept. Exhs. 1-2; Tr. pp. 6-9.

Discussion and Conclusions of Law

The hearing in this matter was conducted in accordance with Chapter 54 of the Connecticut General Statutes, and §§19a-9-1 *et seq.* of the Regulations. In bringing this action, the Department seeks disciplinary actions against respondent's license, as set forth in §§19a-17 and 20-206c.

The Department bears the burden of proof by a preponderance of the evidence.

Since respondent did not file an Answer, the allegations are deemed admitted. §19a-9-20 of the Regulations of Connecticut State Agencies.

In addition to the allegations deemed admitted, a preponderance of the evidence establishes that respondent represented himself to patients as a neurologist and a brain surgeon. In doing so, he treated patients with legitimate medical conditions such as autism and breast cancer with food supplements and vitamins. Clearly, such conduct is beyond the scope of massage therapy and is a blatant violation of the terms and

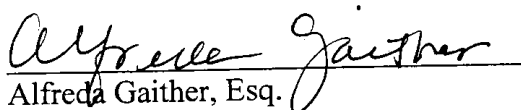
conditions of the Consent Orders which respondent executed in August and September 1998, respectively, issued by the Connecticut Medical Examining Board and the State Board of Natureopathic Examiners, whereby respondent agreed not to engage in any practice that required licensure in the State of Connecticut without first obtaining the appropriate license.

Respondent's conduct is also a direct violation of respondent's affirmative duty under *Conn. Gen. Stat.* § 20-206b to refer clients who have any physical or medical condition that would constitute a contraindication for massage therapy or that may require evaluation or treatment beyond the scope of massage therapists to a licensed healing arts practitioner. By not doing so, respondent potentially put his clients at great risk because they sought treatment from respondent rather than obtaining medical treatment from licensed physicians who were qualified to provide them care.

Connecticut General Statutes §§19a-17 and 20-206c, provide a range of disciplinary actions that may be ordered under such circumstances, including a revocation of respondent's massage therapist license. In this case, respondent's conduct was particularly troubling because he committed fraud and deceit in his practice as a licensed massage therapist by misrepresenting his credentials and qualifications and by charging clients for services and products for which he was not qualified or authorized to do.

Order

Based on the record in this case, the above findings of fact and conclusions of law, the L.M.T. license of Helmy Mahdy shall be revoked.


Alfreda Gaither, Esq.
Hearing Officer

11-21-02
Date